

THE FINAL PRETRIAL ORDER MUST BE SUBMITTED TO THE CLERK OF COURTS AT LEAST THREE (3) WORKING DAYS PRIOR TO THE DATE OF THE FINAL PRETRIAL CONFERENCE. See Courts General Order on Pretrial, Eastern Division Order No. 91-4

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

	:	
	:	
Plaintiff	:	
	:	
v.	:	Case Number _____
	:	Judge James L. Graham
	:	
Defendant	:	

**FINAL PRETRIAL ORDER (REQUIRED FORM)**

This action came before the Court at a final pretrial conference held on \_\_\_\_\_ at \_\_\_\_\_ AM. pursuant to Rule 16, Fed. R. Civ. P.

**I. APPEARANCES:**

For Plaintiff:

For Defendant:

**II. NATURE OF ACTION AND JURISDICTION:**

A. This is an action for

B. The jurisdiction of the Court is invoked under;  
Title \_\_\_\_\_, United States Code, Section \_\_\_\_\_.

C. The jurisdiction of the Court is or is not disputed.

**III. TRIAL INFORMATION:**

A. The estimated length of trial is \_\_\_\_\_ days.

B. Jury or Court Trial has been set for \_\_\_\_\_  
pursuant to the General Order on Trial Assignment.

A trial assignment will be made by the Court at a future date.

IV. AGREED STATEMENTS AND LISTS:

A. General Nature of the Claims of the Parties;

1. Plaintiff claims: set out a brief summary without detail; an itemized statement of special damages should be included.
2. Defendant claims: set out a brief summary without detail.
3. All other parties' claims: same type of statement where third parties are involved.

B. Uncontroverted Facts;

Suggested language: **The following facts are established by admissions in the pleadings or by stipulation of counsel. (set out uncontroverted or uncontested facts.**

C. Issues of Fact and Law;

Suggested language:

1. Contested Issues of Fact: **The contested issued of fact remaining for decision are: (set out)**
2. Contested Issues of Law: **The contested issues of law in addition to those implicit in the foregoing issues of fact, are: (set out) OR: There are no special issues of law reserved other than those implicit in the foregoing issues of fact.**

D. Witnesses;

Suggested language:

1. **In the absence of reasonable notice to opposing counsel to the contrary, plaintiff will call, or will have available at the trial: (list witnesses) OR plaintiff will call (list witnesses)**
2. Same language in #1 suggested for defendant(s) OR defendant will call. (list witnesses)
3. Same language in #1 is suggested for Third Parties, if any.
4. In the event other witnesses are to be called at the trial, a statement of their names and addresses and the general subject matter of their testimony will

be served upon opposing counsel and filed with the Court at least \_\_\_\_\_ days prior to trial.

Suggested language:

5. There is reserved to each of the parties the right to call to such rebuttal witnesses as may be necessary, without prior notice thereof to the other party.

(NOTE: Only witnesses listed in the Pretrial Order will be permitted to testify at the trial, except witnesses called solely for the purpose of impeachment or for good cause shown.)

Expert Witnesses:

Parties are limited to the following number of expert witnesses, including treating physicians, whose names have been disclosed to the other side:

Plaintiff \_\_\_\_\_

Defendant \_\_\_\_\_

For expediency at the trial, counsel will prepare a resume of each expert's qualifications in accordance with Appendix A herein. The Court will read such qualifications to the jury at the time the expert witness is called to testify.

F. Exhibits:

Needless Court time is taken up in the marking of exhibits during trial. Accordingly, the exhibit list should be prepared prior to the trial and set forth in the pretrial order. Exhibits that are to be admitted without objection should be listed first, then followed by a listing of exhibits to which there may be objections, noting by whom the objection is made, if multiple or adverse parties, the nature of the objection and the authority supporting the objection. Exhibit markers should be attached to all exhibits at the time they are shown to opposing counsel during the preparation of the pretrial order. A supply of exhibit stickers may be obtained from the Courtroom Deputy Clerk. They should be attached to the upper right-hand corner whenever possible.

Except for good cause shown, the Court will not

permit the introduction of any exhibits unless they have been listed in the pretrial order, with the exception of exhibits to be used solely for the purpose of impeachment.

**Suggested forms for listing exhibits are found as appendices at the end of this outline.**

The pretrial order should note exhibits as follows:

<b>Appendix B</b>	<b>Joint Exhibits</b>
<b>Appendix C</b>	<b>Plaintiff Exhibits</b>
<b>Appendix D</b>	<b>Defendant Exhibits</b>
<b>Appendix E</b>	<b>Third-party Exhibits</b>

The attached forms may be detached and used in the preparation of the pretrial order.

G. Depositions:

During the trial the reading of depositions frequently presents problems that can be eliminated by advance discussion and preparation. The pretrial order shall list depositions to be read into evidence and any objections thereto identifying the objecting party, portions objected to, and grounds therefor. All irrelevant and redundant matter and all colloquy between counsel in the deposition must be eliminated when the deposition is read.

Suggested language: **testimony of the following witnesses will be offered by deposition/video tape (if none, so state).**

H. Discovery:

Except for good cause, all discovery shall be completed before the pretrial order is signed by the Court. If discovery has not been completed, the proposed pretrial order shall state what discovery is yet to be done by each side, when it is scheduled, when it will be completed and whether any problems such as objections or motions are likely with respect to the uncompleted discovery.

Suggested language; **discovery has been completed OR discovery is to be completed by (give date) OR further discovery is limited to ( specify ) OR the following provisions were made for discovery: (specify).**

I. Miscellaneous Orders:

1. Set forth any orders not properly includable elsewhere or
2. the foregoing stipulations and statements are amended at the final pretrial conference as follows: \_\_\_\_\_

V. **MODIFICATION**

This final pretrial order may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may be made by application of counsel or on motion of the Court.

VI. **JURY INSTRUCTIONS**

The parties shall confer in advance of the final pretrial conference and agree upon proposed jury instructions which shall be delivered to the Court seven (7) days before the trial date. If the parties are unable to agree on how the jury should be instructed as to any issue, they shall each submit their proposed instructions on any such issue(s). There is reserved to counsel the right to submit supplemental requests for instructions during the trial or at the conclusion of the evidence on matters that cannot be reasonably anticipated. All proposed jury instructions shall be submitted to chambers by email and may also be filed on the docket of the case.

VII. **SETTLEMENT EFFORTS**

The parties have made a good faith effort to negotiate a settlement, OR \_\_\_\_\_.

VIII. **ADDITIONAL ACTION TAKEN**

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JAMES L. GRAHAM  
United States District Judge

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Counsel for Plaintiff

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Counsel for Defendant